

## City of Alexandria, Virginia

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11-26-02

## MEMORANDUM

DATE: NOVEMBER 20, 2002

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER <sup>6</sup>

SUBJECT: ADOPTION OF THE CITY'S LEGISLATIVE PACKAGE FOR THE 2003 GENERAL ASSEMBLY SESSION

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**ISSUE:** Adoption of the City's Legislative Package for the 2003 General Assembly Session.

**RECOMMENDATION:** That City Council:

- (1) Adopt items 2 through 20, below, as positions in the City's Legislative Package for the 2003 General Assembly Session (note that items 2, 3 and 8 are included as addenda to the original proposed Legislative Package); and
- (2) Adopt item 1 as a position in its Legislative Package, and determine whether to seek to use any new recordation tax revenues to finance (a) the purchase or preservation of open space; or (b) to finance both the purchase and preservation of open space and programs to support affordable housing.

**RECOMMENDED 2003 LEGISLATIVE PACKAGE ITEMS**

**I. Requests for Legislation to Be Proposed**

**1. Increasing the Recordation Tax**

Authorize localities to increase the local recordation tax by 5¢ (to 10 ¢ per \$100) and use the new revenue either (a) to finance the purchase or preservation of open space; or (b) to finance both the purchase and preservation of open space and programs to support affordable housing.

**2. Funding for Transit**

Propose legislation to increase funding for transit by raising, from 2 percent to 4 percent, the sales tax on motor fuels in Northern Virginia.

### **3. Amending Authority to Levy an Admissions Tax**

Propose legislation to create a separate category – movie theater admissions – for which a locality may charge an admissions tax.

### **4. Assessments on New Buildings**

Propose legislation to authorize the City to perform supplemental assessments on new buildings that are substantially completed, and fit for occupancy, at any time during the year.

### **5. Child Day Care Funding Issues**

Preserve current state funding for child day care to the greatest extent possible, and increase funding to this program when state revenues improve. Make increased child day care funding a priority when the federal government's TANF program is reauthorized, and give priority (through language in the budget) to the following child day care programs: (1) child day care assistance for TANF "graduates"; (2) revised eligibility policies to reflect the high cost of living in Northern Virginia; (3) reimbursement rates that reflect the actual child care market.

### **6. Privileged Communications: Sexual Assault & Domestic Violence Victims**

Request the State Crime Commission and its Domestic Violence Subcommittee to study the need for further legislation to protect the confidentiality of communications between sexual assault and domestic violence victims and their advocates.

### **7. Payments to Foster Care Parents**

Propose language in the State budget directing the Virginia Department of Social Services and the Virginia Department of Planning and Budget to study foster care rates and report their findings and recommendations for revised rates to the 2004 Session of the General Assembly.

## **II. Requests for Legislation to Be Supported**

### **8. Virginia Juvenile Community Crime Control Act (VJCCCA)**

Support continued state funding, at FY 2003 levels, for the Virginia Juvenile Community Crime Control Act.

### **9. Education Funding: Support Virginia Municipal League Position to Increase and Restructure State Education Funding**

Support the VML proposal to base education funding on the cost of education services and at-risk student levels, and would recognize cost differentials across the state.

#### **10. Revisions to the Red Light Camera Law**

Support legislation to extend red light camera authority to localities that do not have it, and to eliminate the program's 2005 sunset provision.

#### **11. Funding for Pre- and Post-Release Services**

Support the restoration of state funding to Virginia CARES, which provides services to help prisoners make the transition back into society, and to prevent them from returning to prison.

#### **12. State Earned Income Tax Credit**

Support legislation to implement a refundable State earned income tax credit.

#### **13. Community Services Block Grants**

Support Community Services Block Grants (CSBG) funding at its current level.

#### **14. Issues Endorsed by the Alexandria Commission on Aging**

Support the legislative platform of the Northern Virginia Coalition on Aging and the Virginia Coalition for the Aging, which asks that the General Assembly maintain essential services to older Virginians in 2003 as it considers revisions to the biennial budget.

#### **15. Virginia Housing Development Authority Loan Eligibility**

Support legislation to require the Virginia Housing Development Authority to extend loans to all individuals who otherwise qualify, whether or not they are related by blood or marriage.

#### **16. Restoration of Civil Rights for Felons**

Support legislation authorizing the General Assembly to provide by statute for the restoration of a felon's voting and other civil rights.

#### **17. Motor Vehicle Accident Investigations**

Support legislation to increase the amount of damage resulting from a motor vehicle accident before a law enforcement officer is required to file a written report on it.

#### **18. Yielding to Pedestrians in Crosswalks**

Support legislation authorizing localities to enact ordinances requiring drivers to stop for any pedestrian using a crosswalk at a non-signalized intersection on a road where the legal maximum speed does not exceed a given moderate speed (e.g., 30 miles per hour).

### **III. Requests for Legislation to Be Opposed**

#### **19. State Surcharge on Municipal Solid Waste**

Oppose any legislation recommending a waste disposal surcharge fee for Waste-to-Energy facilities, or the resulting ash from these facilities.

#### **20. Cluster developments**

Oppose any legislation which would further limit local authority to regulate cluster development.

**DISCUSSION:** On October 23, staff presented to Council the City's 2003 Legislative Package proposals. On November 16, Council held a public hearing on this Package. Since the Package was first presented, the following items have been added to the Package:

- supporting continued funding, at existing levels, for the Virginia Community Crime Control Act (VJCCCA);
- increasing funding available for transit by raising the regional sales tax on motor fuels by 2 percent (it is now 2 percent, and would be changed to 4 percent);
- giving localities authority to increase the local recordation tax and use the new revenues to acquire or preserve open space, or to support affordable housing; and
- giving localities authority to levy an admissions tax on movie theaters.

The first two of the above issues (VJCCCA and transit funding) were discussed in addenda to the original Legislative Package Docket Memorandum. The third issue (recordation tax) was also discussed in an addendum to the original Docket Memorandum (Councilman Speck had asked that the local recordation tax be increased to provide revenues for open space) and again at the Public Hearing (where Councilwoman Woodson recommended that any new recordation tax revenues be available for use to support both open space and affordable housing).

**Admissions Tax.** At the Public Hearing on the Legislative Package, Council also asked that staff add to the Package a request for local authority to charge an admissions tax only on movie theater tickets. All cities and towns, as well as some counties, currently have authority to charge admissions taxes. Under current law, admissions taxes can be charged on the following categories of events:

- events which are held solely to raise funds for charity;
- school-sponsored events;

- entry into museums, botanical gardens, and zoos;
- fees for participants at sporting events; and
- major league baseball games or events held at major league baseball stadiums.

A locality can charge a different admissions tax, or no admissions tax at all, for each of these categories. Movie theaters are not a separate category.

A locality can also charge an admissions tax on all other events (concerts, lectures, plays, recitals, movies, football games, etc.), but the locality must tax all these events (those events not included in the categories set out in the above bullets) at the same rate.

If, as Councilman Speck has recommended, a separate admissions category for movie theater tickets is added to the law, Council would be able to levy an admissions tax on movie theater tickets without taxing any other events. Staff estimates that a ten percent admissions tax on movie theater tickets would provide \$1.5 million per year (each percent would yield \$150,000 annually).

Use of Urban Funds for Traffic Calming. Staff is no longer recommending that the City pursue legislation authorizing the use of urban funds for traffic calming (Item 2.C in the proposed Legislative Package), since VDOT Commissioner Philip Shucet, in response to a request from Delegate Darner, has advised the City that a portion of its urban funds allocation may be spent for traffic calming projects if those items are included in the City's list of projects submitted for incorporation into the Commonwealth Transportation Board's Six-Year Improvement Program (Attachment 1).

### **Summary of Proposals**

Attachment 2 consists of a chart summarizing all the proposals under consideration for the 2003 Legislative Package.

### **ATTACHMENTS:**

Attachment 1 - Letter from VDOT Commissioner Philip A. Shucet to Delegate L. Karen Darner, regarding the use of highway construction funds for traffic calming (October 23, 2002)

Attachment 2 - Summary Chart entitled "City of Alexandria 2003 Legislative Package Proposals" (revised November 18, 2002)

### **STAFF:**

Bernard Caton, Legislative Director

Michele Evans, Assistant City Manager



## COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION  
1401 EAST BROAD STREET  
RICHMOND, VIRGINIA 23219-2000

PHILIP A. SHUCET  
COMMISSIONER

October 23, 2002

The Honorable L. Karen Darner  
House of Delegates  
969 Buchanan Street  
Arlington, Virginia 22204

Dear Ms. Darner:

This is in reference to your letter of October 6, 2002, regarding the use of highway construction funds by a municipality for traffic calming purposes. Previous law allowed the use of street payments, sometimes known as city maintenance funds, for these purposes. The 2002 General Assembly passed legislation that also allows the use of urban construction funding for improvements on local streets. This legislation allows the municipalities to use these funds for traffic calming measures. For the municipality to use these funds, a line item needs to be included in the Commonwealth Transportation Board's Six-Year Program (the State Code requires this for all funds that are distributed by the CTB). In order to provide a safe and efficient transportation system for the commonwealth, traffic-calming measures are limited to local roads only by Department policy.

We agree with the intent of your bill. In fact, current law and policy go even further in that there is no limitation of the amount of a municipality's allocation that can be used in this manner.

I trust this addresses your concerns and that you will now be comfortable in withdrawing your proposed bill. I look forward also in working with you and other General Assembly members as we all work together for a better and improved transportation system.

Sincerely

A handwritten signature in black ink, appearing to read "P. Shucet", written over a horizontal line.

Philip A. Shucet

## Attachment 2

### 2003 Proposed Items for City of Alexandria Legislative Package

ISSUE	PROPOSED ACTION
1. Increasing the Recordation Tax	Propose Legislation
2. Funding for Transit	Propose Legislation
3. Amending Authority to Levy an Admissions Tax	Propose Legislation
4. Assessments on New Buildings	Propose Legislation
5. Child Day Care Funding Issues	Propose Budget Language
6. Privileged Communications: Sexual Assault & Domestic Violence Victims	Propose Study
7. Payments to Foster Care Parents	Propose Study
8. Virginia Juvenile Community Crime Control Act	Support Funding
9. Education Funding	Support Legislation
10. Revisions to the Red Light Camera Law	Support Legislation
11. Funding for Pre- and Post-Release Services	Support Funding
12. State Earned Income Tax Credit	Support Legislation
13. Community Services Block Grants	Support Funding
14. Issues Endorsed by the Alexandria Commission on Aging	Support Funding
15. VHDA Loan Eligibility	Support Legislation
16. Restoration of Civil Rights for Felons	Support Legislation
17. Motor Vehicle Accident Investigations	Support Legislation
18. Yielding to Pedestrians in Crosswalks	Support Legislation
19. State Surcharge on Municipal Solid Waste (WTE)	Oppose Surcharge on WTE
20. Cluster Developments	Oppose Legislation

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City of Alexandria, Virginia

MEMORANDUM

DATE: OCTOBER 16, 2002

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER

SUBJECT: RECEIPT OF PROPOSED CITY LEGISLATIVE PACKAGE FOR THE 2003 GENERAL ASSEMBLY SESSION

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**ISSUE:** Receipt of proposed City legislative package for the 2003 General Assembly Session.

**RECOMMENDATION:** That City Council:

- (1) receive the proposals for the City's 2003 Legislative Package;
- (2) schedule the legislative package proposals for public hearing on Saturday, November 16; and
- (3) schedule adoption of the legislative package for Tuesday, November 26, following Council's work session with the General Assembly delegation.

**DISCUSSION:** Over the past several months, legislative and funding proposals for the City's 2003 Legislative Package have been submitted by Council Members, City departments, and boards and commissions. Seventeen such proposals are described below for your consideration as 2003 legislative package proposals. Section 1 contains legislative proposals that staff recommends for introduction by our delegation; Section 2 contains legislative proposals that staff recommends that the delegation support; and Section 3 includes proposals that the staff recommends that the delegation oppose. All the proposals are also summarized in the chart entitled "City of Alexandria 2003 Legislative Package Proposals" (Attachment 1).

The 2003 General Assembly Session will be a "short" 46-day Session, beginning January 8, and ending February 22. On December 20, 2002, Governor Mark Warner will submit proposed amendments to the State's current biennial budget, which governs state spending through June 30, 2004. Rewriting the budget to address state revenue shortfalls will undoubtedly be the major work of the upcoming Session. The revision of the budget will likely be the City's primary concern next Session, since significant state assistance for schools, social services, law enforcement, and other programs is at stake. Because of the shortfall in state revenues, staff is not recommending any proposals for funding of new programs in this year's legislative package.



Legislative Director Bernard Caton will represent the City in Richmond again this year, and we will report to you regularly on the status of legislative and budget issues that arise during the 2003 General Assembly Session.

## **1. Requests for Legislation to Be Proposed**

### **1.A. Assessments on New Buildings.**

State law allows localities, with the exception of Fairfax County, to make a supplemental assessment on any substantially completed building that is fit for occupancy, as long as the completion date for the building falls before the first of November. If such a building is completed between November 1 and December 31, the locality must wait until the following year to revise the assessment on the building.

In the 1999 General Assembly Session, Fairfax County was granted authority to perform supplemental assessments on buildings throughout the entire year (i.e., they can now do these assessments on buildings completed between November 1 and December 31). The County was required to pass an ordinance to use this new authority. Fairfax now prorates real estate taxes on all newly constructed buildings based on the number of days in the tax year that they are fit for occupancy.

The City recommends that it be given the same authority as Fairfax County. It is also working with other localities to get their support for this proposal. If this authority were implemented in Alexandria, staff estimates that it could result in approximately \$150,000 in new revenue annually.

### **1.B. Child Day Care Funding Issues (Early Childhood Commission)**

For several years now, the City has sought additional state funding for those residents who receive state and local child day care financial assistance. While it would be unrealistic to expect increases in state funding for child day care in the 2003 Session, the Early Childhood Commission (ECC) recommends that current state funding be preserved to the greatest extent possible.

The ECC also recommends that the state put additional money into this program when state revenues improve. Finally, the ECC would like the state to make increased child day care funding a priority when the federal government's major welfare program, Temporary Assistance to Needy Families (TANF), is reauthorized (this is expected to occur next year).

More specifically, the ECC recommends the following priorities for child day care programs when new money becomes available. The City's General Assembly delegation may wish to incorporate language into the current state budget, directing the Administration to take these proposals into consideration when developing the next biennial budget.

A. Give TANF "Graduates" Additional Child Day Care Assistance. Current state policies make those parents who are making the transition off welfare (TANF) eligible to receive child day care assistance for up to 12 months. Most parents are not making sufficient wages to meet child day care and other needs at the end of this 12-month period. Ray Goodwin, Deputy Director of the Virginia Department of Social Services, recently noted that a new study prepared for the Department "shows that there have been many successes in welfare reform in Virginia, but some moving off welfare still struggle for self-sufficiency." To help address this problem, the ECC recommends that state policy be changed (and funding provided) so that parents are eligible for child day care assistance for an additional year after "graduating" from TANF. This would allow TANF "graduates" to stay employed, improve their wage rates, and eventually become totally self-supporting.

B. Revise eligibility policies to reflect the high cost of living in Northern Virginia. Prior to 1996, Northern Virginia localities had the option of providing state child care subsidies for families with annual incomes up to 75% of the state median income. At that time, families with monthly incomes of about \$3,000 or less (for a family of four) were eligible for this assistance in many Northern Virginia jurisdictions.

Since 1996, income limits in Northern Virginia have been lowered significantly. In Northern Virginia, a family of four is now eligible for child day care assistance only if its income does not exceed about \$2,700 monthly. Federal regulations allow Virginia to extend these subsidies to families whose monthly incomes are at or below \$4,800 for a family of four.

The ECC recommends that Northern Virginia eligibility levels be returned at least to their 1996 levels.

C. Ensure that reimbursement rates reflect the actual child care market. The Virginia Department of Social Services (DSS) is required (1) to survey local child day care providers biennially to determine actual market rates, and (2) to use these survey results to set state reimbursement rates. The state completed its most recent Alexandria survey in 1999, and did not use this data (which was flawed) to revise rates until 2001. Finally, DSS admitted that the rates it set in 2001 included only half the increase justified by its flawed and outdated survey.

When reimbursement rates are set lower than actual market rates, low-income parents frequently must pay the difference to their child care providers. Furthermore, the number of individuals willing to provide child day care services decreases when reimbursement rates are too low, making it difficult for low-income families to find child care.

The ECC recommends that DSS (1) undertake its market survey every two years, (2) revise rates in a timely manner after each survey, and (3) set and fund these revised rates at the 75<sup>th</sup> percentile of the market survey. This will help ensure that low-income families have access to affordable, quality child care. A position similar to this was included in the City's 2002 Legislative Package.

#### **1.C. Privileged Communications: Sexual Assault & Domestic Violence Victims (The Commission for Women)**

The Alexandria Office on Women has a strong and caring program in which it supplies advocates to assist victims of sexual assault and domestic violence. These victims and advocates often discuss some of the most personal and confidential information about the victim's life and the sexual assault or domestic violence directed against the victim. In recent years, these Alexandria programs, as well as similar programs around the Commonwealth, have experienced an influx of subpoenas for confidential records, or for the advocates to testify about the information they have received from the victims.

Although victims have spoken to their advocates with the belief that any information they give will be held in confidence, there is no Virginia statute that protects the confidentiality of communications between these advocates and victims. Without this confidentiality, those who have been assaulted are further victimized and their willingness to participate in the legal process may be hindered. In addition, when staff members are subpoenaed, the efficacy of these advocates is severely compromised. Furthermore, responding to subpoenas requires advocates to spend scarce time researching records and testifying in court – time that should be spent in support of victims.

Thirty-three other states, including North Carolina and Alabama, protect confidential communications between clients and their advocates.

The Commission for Women believes that Virginia law should protect the confidentiality of communications between victims and advocates. Since there is likely to be some opposition to such a statutory change, the Commission believes that a legislative study could educate General Assembly members about the problem, and help develop support for a bill in the future. The Commission for Women recommends that the State Crime Commission and its Domestic Violence Subcommittee study this issue and propose appropriate legislation to the 2004 General Assembly Session.

#### **1. D. Payments to Foster Care Parents (Child Welfare Partnership)**

Foster parents are people who generously open their homes to children in need, and are committed to meet the individual needs of these children. They work in partnership with the child, the City, and in many cases the birth parents to help in resolving problems and reuniting the family whenever possible. Most children in foster care are going through a troubled period in

their family life. They are often confused, sad, and angry, and need a great deal of support and attention from their foster parents.

The state provides some funding to cover the costs incurred by foster parents. Currently, this ranges from \$194 monthly for a child 4 years old or younger, to \$436 for a child 13 or older.<sup>1</sup> This pays for far less, however, than the \$689 that the federal government estimated in 2000 as the average monthly cost (not including medical care) of raising a 9-year-old child.

The City's Child Welfare Partnership believes that the state should substantially increase payments to foster parents. It realizes that this will not occur during the current state budget crisis. The Partnership would like the state to be ready to revise foster care rates once state revenues improve, and recommends that the Virginia Department of Social Services and the Virginia Department of Planning and Budget study foster care rates and report their findings and recommendations for revised rates to the 2004 Session of the General Assembly.

## **2. Requests for Legislation to Be Supported**

### **2. A. Education Funding: Support Virginia Municipal League Position to Increase and Restructure State Education Funding (Mayor Donley)**

Local governments throughout the Commonwealth currently pay a disproportionate share of the costs for the instructional and support staff necessary to meet state educational standards. In 2002, the Virginia General Assembly's Joint Legislative Audit and Review Commission (JLARC) completed a two-year review of state and local education funding. This study documented a shortfall of \$1 to \$1.4 billion in state educational funding for school systems throughout the state.

The Virginia Municipal League (VML) and the Virginia Association of Counties (VACO) have reviewed the JLARC report, and developed a proposal to address the inadequacy of state funding for K-12 education. This proposal, which would require additional state revenues, would also address a well-documented need for additional revenues at the local level.

The VML/VACO proposal seeks to replace the current education funding formula with a simpler one. The new formula would be based on the cost of education services and at-risk student levels, and would recognize cost differentials across the state. Under the current draft proposal (which, staff cautions, could change significantly before such a proposal is ever enacted), the City of Alexandria is projected to receive over \$26 million in new revenue.

Although this proposal could not be funded while the state is experiencing its current revenue shortfall, VML and VACO are pursuing this as a long-term goal. Mayor Donley has recommended that the City also support this proposal.

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<sup>1</sup>In cases where a child is living on his own, in an independent living arrangement often connected with attendance at college, the monthly payment increases to \$644.

## **2. B. Revisions to the Red Light Camera Law (Councilman Speck)**

Alexandria initiated a pilot red light camera enforcement program in 1997 to reduce the number of red light violations. Under this program, a private vendor under contract with the City photographs motor vehicles that run red lights at three intersections (Patrick and Gibbon, Duke and Walker, and Seminary and Nottingham). The vehicle's owners are then identified, using Virginia Department of Motor Vehicles records, and each owner is sent a notice of violation and is required to pay a \$50 fine. Under the state law, no points are assessed against a vehicle owner's driving record. This program has been effective in helping to reduce red light violations in the City.

In recent General Assembly Sessions, legislation has been introduced to extend red light camera authority to a number of localities that do not have it,<sup>2</sup> and to eliminate the program's 2005 sunset provision. Without the elimination of the sunset provision, the City will not be able to continue its program beyond July 1, 2005. Staff expects this legislation to be introduced again in 2003.

Councilman Speck has asked that the City include in its Legislative Package support for this legislation. A position supportive of the State's red light camera law was included in the City's 2002 Legislative Package.

## **2. C. Use of Urban Funds for Traffic Calming (Carryover Legislation)**

Virginia's urban system funds provide the major source of funding for construction improvements to City streets. These are earmarked and distributed as a part of the Virginia Department of Transportation's (VDOT) multi-year planning process. Projects that use these funds must be approved by the Commonwealth Transportation Board or VDOT staff.

Prior to the 2002 Session, the City was told by VDOT regional staff that these funds could not be used for traffic calming without new statutory authority. At the City's request, Delegate Karen Darnier introduced HB 130 to give any city or town the ability to use a portion of its state allocation for traffic calming projects. The bill was carried over in the House Transportation Committee. VDOT headquarters staff advised Delegate Darnier and the City that a portion of its allocation may be spent for traffic calming projects if those items are included in the City's list of projects submitted for incorporation into the Commonwealth Transportation Board's Six-Year Improvement Program. Delegate Darnier has written to the VDOT Commissioner to confirm this interpretation of current law. If the Commissioner concurs, HB 130 will not be needed. If the Commissioner does not concur, staff recommends that the City continue to pursue this legislation.

## **2. D. Funding for Pre- and Post-Release Services (Councilman Euille and Economic Opportunities Commission)**

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<sup>2</sup>Eight localities are authorized to operate red light camera programs: the cities of Alexandria, Fairfax, Falls Church, Richmond, and Virginia Beach, and the counties of Arlington, Fairfax, and Loudoun.

Since 1977, the Virginia CARES Network has provided services to help over 50,000 prisoners make the transition back into society, and prevent them from returning to prison. Virginia CARES estimates that it costs over \$20,000 a year to keep a person in prison, but only \$300 (a one-time cost) for this organization to provide the help that keeps a person from returning to prison.

The state has provided funding for Virginia CARES for a number of years. Last Session, the organization's state funding was reduced by 20 percent (to about \$1.8 million) from the previous year's level for the first year of the current biennium, and eliminated altogether for the second year. The Economic Opportunities Commission has asked the City to support the restoration of state funding to this program for FY 04, at the same level as the current fiscal year (\$1.8 million).

## **2. E. State Earned Income Tax Credit (Mayor Donley and Economic Opportunities Commission)**

For a number of years now, legislation has been introduced in the General Assembly to create a state Earned Income Tax Credit (EITC). An EITC is a special credit for low-income working persons. A federal EITC already exists. Under the federal program, a single taxpayer with more than one child qualifies for the credit if the individual's earned income (e.g., wages and salaries) does not exceed \$33,178 a year; a married couple's earned income cannot exceed \$34,178.<sup>3</sup>

Most of the past EITC proposals sought to give a Virginia tax credit equal to 10 percent of the credit awarded the taxpayer under the federal program. Until 1998, all the proposals were defeated. That year, legislation was passed to create a tax credit equal to the greater of: (1) 75 percent of the taxpayer's federal earned income credit, or (2) \$300 per child under 18 living at home. The credit was also limited to the taxpayer's tax liability (under the federal program, recipients of EITC recipients are sent a check for the difference if their EITC credit exceeds their tax liability). Funding for this program was to be provided by the state as a part of Virginia's maintenance of effort required under the federal TANF (Temporary Assistance to Needy Families) program, subject to federal approval of the concept. When the federal government reviewed this legislation, it agreed that TANF funds could be used for this purpose, but only for tax year 1998.<sup>4</sup>

As part of its 2000 and 2001 Legislative Packages, the City proposed state EITC legislation that, like the federal version, would have been refundable (the taxpayer would have received a check from the state if his credit exceed his tax liability). This legislation was defeated by the General Assembly, which instead enacted a bill that gives a state tax credit of up to \$300 annually to taxpayers whose family income does not exceed federal poverty limits. This credit is non-refundable (if it exceeds the person's tax liability, the state does not send him a check for the difference).

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<sup>3</sup>This is the maximum income eligibility for tax year 2002.

<sup>4</sup> Because the program did not meet all the requirements of an "expenditure" under TANF regulations, the federal government said that it could not permanently certify the program.

A 2001 study by the Center on Budget and Policy Priorities (CBPP), a non-profit institute that conducts studies on issues that affect low and middle-income households, found that 15 states and the District of Columbia offered a state Earned Income Tax Credit at the end of 2001.<sup>5</sup> The annual cost of these programs ranged from \$6 million in Iowa to \$361 million in New York. The CBPP estimated in that study that if Virginia created a refundable state Earned Income Tax Credit giving families a state credit equal to 10 percent of the credit they receive under the federal program, it would cost the state \$68 million annually. CBPP provided data to City staff which shows that approximately 11 percent of City residents who file federal tax returns receive the federal Earned Income Tax Credit, and would thus be eligible under a state program which is based on the federal one.

At the City's request, Delegate Brian Moran introduced HB 1025, which would provide a refundable state earned income tax equal to 10 percent of the federal credit for any tax payer. This bill was carried over for consideration by the 2003 Session. Mayor Donley and the Economic Opportunities Commission have recommended that the City continue to support a refundable earned income tax credit.

## **2. F. Community Services Block Grants (Economic Opportunities Commission)**

The Department of Human Services' Office of Community Services provides a wide range of emergency services, crisis intervention, and housing assistance to low-income persons in Alexandria. Much of this is supported financially by federal and state Community Services Block Grants (CSBG). During the current fiscal year, the City will receive about \$51,000 in CSBG funds. There is never enough CSBG funding to support all the eligible needs of the low-income individuals the program serves.

Because of the current state budget crisis, the Economic Opportunities Commission knows that it cannot expect the state to increase CSBG funding. It does recommend, however, that CSBG funding be continued at its current level, and not reduced as part of the State's efforts to balance its budget. The City supported funding for CSBGs in its 2002 Legislative Package.

## **2. G. Issues Endorsed by the Alexandria Commission on Aging**

The Alexandria Commission on Aging regularly asks Council to endorse the legislative platform of the Northern Virginia Coalition on Aging and the Virginia Coalition for the Aging. The Commission then testifies in support of the platform during the General Assembly Session. Council has followed this process since 1997 (authorizing the Commission to support the Coalitions' platforms).

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<sup>5</sup>Nicholas Johnson, Center on Budget and Policy Priorities (Washington, D.C.), *A Hand Up, How State Earned Income Tax Credits Help Working Families Escape Poverty*, 2001 Edition.

This year the Coalitions have a very simple platform (Attachment 2). It asks that the General Assembly maintain essential services to older Virginians in 2003 as it considers revisions to the biennial budget.

## **2. H. Virginia Housing Development Authority Loan Eligibility (Human Rights Commission)**

The Virginia Housing Development Authority (VHDA) is a state entity that makes loans for affordable housing to first-time home buyers with low and moderate incomes. VHDA loans are more attractive to home buyers because they generally require a lower down payment, a lower interest rate, or both.

Several years ago, the VHDA Board adopted a new regulation. This regulation restricts VHDA loans, in the case of two or more individuals who wish to purchase a home, to persons who are related by blood or marriage. Because of this restriction, unrelated couples, including same-sex couples, cannot receive VHDA assistance. The Human Rights Commission has asked the City to support legislation to prohibit such a regulation. The Human Rights Commission has similarly recommended that the City oppose any legislation that would enact the existing regulation as a statute. Council adopted a similar position on this issue in the City's 2002 Legislative Package.

## **2. I. Restoration of Civil Rights for Felons (Human Rights Commission & Economic Opportunities Commission)**

Under Virginia law, any person convicted of a felony forfeits certain civil rights for life, including the right to vote. The Virginia Constitution reserves to the Governor the power to restore these rights. Virginia's process for restoring rights has been one of the most restrictive in the country. In recent years, there have been increased complaints about the difficulties felons in Virginia face if they try to have their rights restored. They often have no idea how the process works, and have found it difficult to determine the status of their requests to have their rights restored.

Legislation (HB 1080) passed by the 2000 General Assembly addressed some of these problems. It required the Virginia Department of Corrections to explain to felons, at the completion of their prison sentence, the state process for restoring civil rights. HB 1080 also directed the Secretary of the Commonwealth (who prepares, for the Governor, the paperwork on the restoration of rights) to notify felons once a completed application for the restoration of rights has been received. Finally, the bill required the Secretary of the Commonwealth to notify an applicant of the Governor's decision (whether or not voting rights will be restored) no later than 90 days after that decision had been made.

Governor Mark Warner recently announced further changes to streamline the process by which those convicted of non-violent felonies, other than drug distribution offenses and voting fraud, may regain their civil rights (including the right to vote, to hold public office, to serve on a jury and to serve as a notary public). Under the new policy adopted by the Governor, these offenders may apply for a restoration of rights three years (as opposed to the existing policy of 5 years) after completing their sentence, as well as any suspended sentence, probation, parole or



supervised release. The application has been reduced to a single page. The Commonwealth will continue to perform a criminal background check on all applicants. Those applicants who have not been convicted of any offense since the conviction which caused them to forfeit their civil rights, and have no pending criminal charges, will have their voting rights restored. The Governor's new policy also provides for all applicants to receive a decision from the Governor within six months of submitting a completed application.

For over a year now, a Task Force of the Virginia State Crime Commission has been studying this issue. This Task Force is chaired by Delegate Brian Moran, and is expected to recommend to the 2003 General Assembly that the State Constitution be amended to authorize the General Assembly to provide by statute for the restoration of a felon's rights. If such an amendment is enacted, the General Assembly could provide by statute for the continuation of Governor's Warner revised procedures or similar ones. Without such an amendment, a future Governor could retract the Warner process and return to the earlier slower, more cumbersome one.

Alexandria's Human Rights and Economic Opportunities Commissions recommend that the City support further modifications to the process for restoring voting and other civil rights, so that more felons would have these rights restored after they complete their prison sentences. The City supported modifications to the process for restoring civil rights for felons in its 2002 Legislative Package.

## **2. J. Motor Vehicle Accident Investigations**

The Code of Virginia requires any law enforcement officer who investigates a motor vehicle accident which results in total property damage estimated at \$1,000 or more to file a written report of the accident with the Virginia Department of Motor Vehicles. This statute has been in the Virginia Code for a number of years, and has been amended from time to time, mainly to increase the threshold for which these written reports are required. The threshold was originally set at \$500 in 1986. It was raised to \$750 in 1988, and to \$1,000 in 1992. It has remained at that level for 10 years. In 2001, legislation to increase the threshold to \$2,500 was defeated.

A police officer spends about an hour preparing one of these reports, and the Alexandria Police Department believes that this time should be spent on more important duties than preparing reports on many relatively minor accidents. Police recommend that they continue to respond to and investigate all accidents, but not file written reports on accidents involving less serious property damage. Law enforcement officers can still charge a driver found at fault even when minor damage does not trigger the completion of a state report.

The Alexandria Police Department has asked the City to support an increase in the threshold to something above \$1,000. The threshold would be approximately \$1,300 if it were increased to a level that would take into account increases in the cost of living since the threshold was last changed (1992). The City recommends that the delegation support legislation to increase this threshold if it is introduced.

## **2. K. Yielding to Pedestrians in Crosswalks (Mayor Donley)**

Pedestrian safety is a major issue for Northern Virginia localities. The high volume of traffic often makes it difficult for pedestrians to cross roads, even at crosswalks.

Current law (§ 46.2-924) requires drivers to yield, but not stop, at any clearly marked crosswalk where the legal maximum speed does not exceed 35 miles per hour. Staff from various Northern Virginia localities believe that pedestrian safety would be enhanced if localities could enact ordinances requiring drivers to stop for any pedestrian using a crosswalk at a non-signalized intersection on a road where the legal maximum speed does not exceed a given moderate speed (e.g., 30 miles per hour). The Northern Virginia Mayors and Chairs recently agreed to recommend that their localities include this legislation in their legislative packages for the upcoming Session.

## **3. Requests for Legislation to Be Opposed**

### **3. A. State Surcharge on Municipal Solid Waste (Mayor Donley)**

In 2001, the Virginia Recycling Markets Development Council, a State-chartered advisory body, recommended that the state adopt a surcharge on all municipal solid waste (MSW) disposed of in Virginia, including that which is incinerated at waste-to-energy (WTE) facilities. Although no surcharge legislation was introduced in the regular 2001 Session, the Governor asked the General Assembly to adopt a surcharge statute at the 2002 Veto Session. The Governor's proposal would have exempted WTE plants from paying the surcharge on waste they received (although the ash a WTE facility sends to a landfill probably would have been subject to a surcharge), and would have returned a portion of the surcharge revenues to local governments for use in programs aimed at conserving and protecting their natural resources (e.g., the preservation of open space). This legislation, which would have been beneficial to the City as drafted, was carried over to the 2003 Session, where it or other surcharge legislation is likely to be considered. Staff is concerned that legislation in 2003 may not have a WTE exemption. Without such an exemption, the WTE facility jointly owned by the City of Alexandria and Arlington County could suffer significant revenue losses.

The Arlington-Alexandria facility has been operated since its opening by a private-public partnership. With the loss of flow control authority following a 1994 Supreme Court decision, the Alexandria/Arlington facility began to lose customers, and it had to lower tipping fees (below the actual facility costs) for private customers so that they would continue using the facility. At the same time that the facility's fees were being lowered, federal Clean Air Act requirements forced the facility to make expensive capital improvements, which were financed with a \$46.1 million bond issue. These combined financial pressures – lower revenues from tipping fees, and higher costs for expensive capital improvements – may result in the need for Alexandria and Arlington to provide ongoing, substantial subsidies to the facility. To date, we have avoided such a taxpayer subsidy by drawing down reserves to cover operating losses (these reserves were

established in part for capital improvement purposes), and by increasing local solid waste fees charged to our residents.

If a tipping fee is also added, it will quickly and significantly increase any taxpayer subsidy needed for this facility. For this reason, Mayor Donley has asked that the City oppose any legislation recommending a waste disposal surcharge fee for WTE facilities, or the resulting ash from these facilities. The City opposed surcharge fees for WTE facilities in its 2002 Legislative Package.

### **3. B. Cluster developments (Councilwoman Eberwein)**

The 2002 General Assembly passed legislation (HB346) that significantly revises local authority over cluster development. This bill authorizes localities to regulate cluster developments by ordinance only – not by issuance of a special use permit, except in certain cases (localities may require special use permits for cluster developments of 2 acres or less, or cluster developments that would have density greater than that otherwise permitted for the property). Localities have until July 1, 2004, when special use permits for most cluster developments become prohibited, to adopt a cluster ordinance.

This cluster legislation (which the City supported) was developed as a compromise between the building industry and local governments. One of the compromise issues involved the regulation of building design features in a cluster ordinance. All parties to the compromise bill agreed that local governments could include specific standards for open space, landscaping, roads, and building design in a cluster ordinance.

The City of Suffolk has already prepared a draft cluster ordinance that incorporates design standards. Some General Assembly members have questioned whether design standards should be included in a cluster ordinance, in spite of the compromise that was reached on this issue, and have questioned whether additional cluster legislation, more restrictive of local government authority, is needed.

Councilwoman Eberwein has asked that the City oppose any efforts to further limit local authority to regulate cluster development.

#### **STAFF:**

Bernard Caton, Legislative Director  
Michele Evans, Assistant City Manager

#### **ATTACHMENTS:**

- Attachment 1. Summary Chart entitled "City of Alexandria 2003 Legislative Package Proposals"
- Attachment 2. 2003 Legislative Platforms of the Virginia Coalition for the Aging and the Northern Virginia Aging Network

**Attachment 1**

**2003 Proposed Items for City of Alexandria Legislative Package**

<b>ISSUE</b>	<b>PROPOSED ACTION</b>
1.A. Assessments on New Buildings	Propose Legislation
1.B. Child Day Care Funding Issues	Propose Budget Language
1.C. Privileged Communications: Sexual Assault & Domestic Violence Victims	Propose Study
1.D. Payments to Foster Care Parents	Propose Study
2.A. Education funding	Support Legislation
2.B. Revisions to the Red Light Camera Law	Support Legislation
2.C. Use of Urban Funds for Traffic Calming	Propose Legislation
2.D. Funding for Pre- and Post-Release Services	Support Legislation
2.E. State Earned Income Tax Credit	Support Legislation
2.F. Community Services Block Grants	Support Funding
2.G. Issues Endorsed by the Alexandria Commission on Aging	Support Proposals
2.H. VHDA Loan Eligibility	Support Legislation
2.I. Restoration of Civil Rights for Felons	Support Legislation
2.J. Motor Vehicle Accident Investigations	Support Legislation
2.K. Yielding to Pedestrians in Crosswalks	Support Legislation
3.A. State Surcharge on Municipal Solid Waste (WTE)	Oppose Surcharge on WTE
3.B. Cluster Developments	Oppose Legislation



## **Virginia Coalition on Aging Public Policy Statement – 2003**



**The Commonwealth of Virginia finds itself in an extremely painful financial situation. The Administration and the General Assembly worked with determination during the early days of 2002 to close an almost \$4 billion budget shortfall. We greatly appreciate the commitment to maintain essential services to our most vulnerable citizens. Without that commitment, many frail and elderly Virginians would have lost critically needed services.**

**To our elected leaders, the Virginia Coalition on Aging applauds your resolve and dedication to the protection of our most vulnerable Virginians.**

**In FY 2003 we find ourselves facing a shortfall of over \$1.5 billion. You, the people we entrust with the responsibility to decide what kind of Virginia we live in, we implore you to remember that older Virginians, especially those who are frail and vulnerable, helped make Virginia the place that we call home, the place we are so proud of today. We must not let them down, we must not turn our backs when they need our help.**

**We know that the budget must be balanced, but it must not be balanced on the backs of those least able to afford it.**

**Attached is the legislative platform prepared by the Virginia Coalition for the Aging for the 2002 session. It was intended as guidance for the preparation of the 2002-2004 budget. The numbers used remain valid today. The financial condition of the Commonwealth today is deeply troubling but we do not believe that permitting waiting lists for vital services to increase is the burden that Virginia's Seniors should bear.**

**We encourage you to keep your commitment to maintain these essential services for older Virginians and to pursue with persistence efforts to reduce the widening gap between our elderly in need and the services to support them.**



# Virginia Coalition on Aging



## The essentials for Older Virginians:

- **Support to stay in their homes and communities –**
  - Meals
  - Transportation
  - In-home services and support
  - Care coordination
  - Respite
  - Adult Day Care
- **Enhanced availability and quality of care in Long-Term Care Facilities.**
- **Adequate funding to promote health and safety to prevent abuse, neglect and exploitation -**
  - Adult Protective Services
  - Guardianship
  - Research to improve the quality and effectiveness of services
  - Prescription assistance
  - Long-Term Care Ombudsman

Home and community-based services help elder Virginians remain in the least-restrictive setting and function as independently as possible by establishing and/or strengthening appropriate family and social supports. Adequate home and community-based care decreases the risk of institutional placement, the overall costs for long-term care, and the risk of adult abuse, neglect, and/or exploitation. These services assist adults unable to care for themselves.

**Total documented unmet need across all essential services listed above as of December 2001 = \$55.9 million**

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11-26-02

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**City of Alexandria, Virginia**

MEMORANDUM

DATE: NOVEMBER 11, 2002

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER *PS*

SUBJECT: ADDENDUM TO THE PROPOSED CITY LEGISLATIVE PACKAGE FOR THE 2003 GENERAL ASSEMBLY SESSION (COUNCILWOMAN WOODSON AND COUNCILMAN SPECK)

---

**ISSUE:** Addendum to the proposed City Legislative Package for the 2003 General Assembly Session (Councilwoman Woodson and Councilman Speck).

**RECOMMENDATION:** That City Council incorporate this addendum into the 2003 Legislative Package, which is scheduled for public hearing on Saturday, November 16. The addendum contains proposals from Councilwoman Woodson to preserve state funding for the Virginia Juvenile Community Crime Control Act, and from Councilman Speck to authorize localities to increase the recordation tax to provide funds to preserve or purchase open space.

**DISCUSSION:** On October 23, Council received the City's proposed Legislative Package for the 2003 General Assembly Session, and scheduled it for public hearing on November 16. At the October 23 meeting, Councilwoman Woodson asked staff to incorporate an additional item into the proposed legislative package: support for continued state funding (with no additional budget reductions) for the Virginia Juvenile Community Crime Control Act (VJCCCA). After the October 23 meeting, Councilman Speck asked that staff add a proposal to authorize local governments to increase the local recordation tax, and use the increased revenue from the tax to purchase or preserve open space.

Virginia Juvenile Community Crime Control Act. The VJCCCA funds programs in Alexandria and other localities that provide alternatives to secure detention for juveniles, such as the day reporting centers (which provide structured supervision to juveniles), the Youth Educational Program (which seeks to divert first-time shoplifters from additional offenses), and the School Liaison Program (which attempts to stop patterns of truancy). In FY 2002, the City received \$525,951 in VJCCCA funds. For FY 2003, this funding was reduced to \$275,716 (statewide VJCCCA funding was reduced from \$29.5 million in FY 2002 to \$14.5 million in FY 2003). The City increased its existing supplement to this program, and is providing approximately \$300,000 to VJCCCA programs in FY 2003. It is unlikely that the City will be able to fully fund

additional cuts that are made to this and other programs as the state seeks to address its current budget shortfall.

Councilwoman Woodson has asked that the City support continued state funding levels for the VJCCCA.

Funding for Open Space. Alexandria is a relatively small but very densely populated City. Residents of the City value park land and other open space. At the City's 1998 Environmental Summit, open space was identified as one of the top three environmental quality of life issues. The recently completed Strategic Master Plan for Open Space, Parks, Recreation Facilities and Recreation Programs concluded that the City would need to add 100 acres of open space by 2012, if it is to continue to provide 7.5 acres of open space per 1,000 residents, as it did in 1990.

Real estate in Alexandria is very expensive, and land available to purchase or preserve as open space is scarce. The City would like to enhance its efforts at preserving and providing open space to its residents, but is inhibited from doing this by a shortage of funds for this purpose.

Councilman Speck has been working with members of the General Assembly's Commission on Growth and Economic Development to seek support for providing localities with additional funding mechanisms to purchase and preserve open space. Councilman Speck has asked that the City seek legislation in the 2003 Session to authorize localities to increase the local recordation tax (paid when real estate is transferred from one owner to another) and use the new revenue to purchase or preserve open space.

**STAFF:**

Bernard Caton, Legislative Director



16  
11-26-02  
City of Alexandria, Virginia

MEMORANDUM

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~~11-16-02~~

DATE: NOVEMBER 14, 2002

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER *PS*

SUBJECT: ADDENDUM (SECOND) TO THE PROPOSED CITY LEGISLATIVE PACKAGE  
FOR THE 2003 GENERAL ASSEMBLY SESSION (MAYOR DONLEY)

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**ISSUE:** Addendum to the proposed City Legislative Package for the 2003 General Assembly Session (Mayor Donley).

**RECOMMENDATION:** That City Council incorporate this addendum into the 2003 Legislative Package, which is scheduled for public hearing on Saturday, November 16. This addendum contains a proposal from Mayor Donley to increase the sales tax on motor fuels, which is charged only in those localities which are members of the Northern Virginia Transportation Commission (NVTC) and the Potomac-Rappahannock Transportation Commission (PRTC). NVTC jurisdictions are the cities of Alexandria, Fairfax, and Falls Church, and the counties of Arlington, Fairfax, and Loudoun; PRTC jurisdictions are the cities of Fredericksburg, Manassas, and Manassas Park, and the counties of Prince William and Stafford.

**DISCUSSION:** On October 23, Council received the City's proposed Legislative Package for the 2003 General Assembly Session, and scheduled it for public hearing on November 16. Since then, two items have been added to the package (funding for the Virginia Juvenile Community Crime Control Act and authority to increase the local recordation tax to acquire open space), as set out in a November 11, 2002, addendum. Mayor Donley has asked that the City also seek legislation which would increase, from 2 percent to 4 percent, the sales tax on motor fuels which is charged in Northern Virginia.

The 2 percent sales tax on fuel was enacted by the 1980 General Assembly to provide a consistent and dedicated revenue source for the new Metrorail system. Revenues originally were collected on all fuel purchases in those localities which belonged to NVTC at that time (the cities of Alexandria, Fairfax, and Falls Church, and the counties of Arlington and Fairfax). In 1986, the tax was extended to PRTC, where it is used to pay for a portion of the costs of VRE (the Virginia Railway Express) and other transportation programs. The tax has been assessed on motor fuel sales in Loudoun since that county joined NVTC in 1990.

Since the tax is assessed based on the cost, and not the amount, of fuel purchased, total revenues sometimes vary considerably from year to year. Total NVTC revenues grew from \$17.2 million in FY 2000, to \$21.2 million in FY 2001, but they fell to \$18.4 million in FY 2002.

NVTC motor fuels tax revenues for WMATA (Metro) compact members (which is all NVTC localities except Loudoun) are used exclusively to pay for WMATA expenses. Each locality is generally credited with the amount of revenues raised from actual fuel sales in the locality, and this credit reduces the WMATA subsidy owed by the locality. Loudoun uses its motor fuels tax revenues for its own transit and transportation needs.

State taxes on motor fuels in this region are: Virginia: \$0.175/gallon; District of Columbia: \$.020/gallon; and Maryland: \$0.235/gallon.

In FY 2002, \$1.64 million was raised from motor fuels sales taxes in the City of Alexandria. If the rate had been 4 percent, rather than 2 percent, revenues from motor fuel sales would have been \$3.3 million, which would have been credited toward the City's WMATA obligations.

While it is difficult to fully project the City's future WMATA obligations, the proposed WMATA CIP includes projects that could require as much as \$215 million in City funds over the next 10 years. Only \$20 million of this is funded in the City's current CIP. While the CIP actually approved for WMATA may be lower than the WMATA proposal, this demonstrates the City's need for additional dedicated transit revenues.

**STAFF:**

Bernard Caton, Legislative Director

16  
11-26-02

# *City of Alexandria, Virginia*

## 2003 General Assembly Legislative Package



### **ALEXANDRIA CITY COUNCIL**

Kerry J. Donley, Mayor  
William C. Cleveland, Vice Mayor  
Claire M. Eberwein  
William D. Euille  
Redella S. Pepper  
David G. Speck  
Joyce Woodson

### **CITY MANAGER**

Philip Sunderland

January 2003

**Positions in the City of Alexandria's Legislative Package  
for the 2003 General Assembly Session**

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## 1. Increasing the Recordation Tax

**Position:** *The City of Alexandria seeks the passage of legislation to authorize localities to increase the local recordation tax by 5¢ (to 10¢ per \$100) and use the new revenue to finance the purchase and preservation of open space, or to support affordable housing.*

Alexandria is a relatively small but very densely populated City. Residents of the City value park land and other open space. At the City's 1998 Environmental Summit, open space was identified as one of the top three environmental quality of life issues. The recently completed Strategic Master Plan for Open Space, Parks, Recreation Facilities and Recreation Programs concluded that the City would need to add 100 acres of open space by 2012, if it is to continue to provide 7.5 acres of open space per 1,000 residents, as it did in 1990. Real estate in Alexandria is very expensive, and land available to purchase or preserve as open space is scarce. The City would like to enhance its efforts at preserving and providing open space to its residents, but is inhibited from doing this by a shortage of funds for this purpose.

The City also has a significant need for additional affordable housing. In recent years, there have been fewer and fewer units of affordable housing available for purchase or rent in the City. In response to the shrinking number of affordable housing units, the City created an Affordable Housing Task Force, which met from January through October of 2001. In response to the Task Force's recommendations, the City developed several new affordable housing initiatives which required additional funding. Among the affordable housing programs available to assist City residents are funds to assist low/moderate first-time buyers with downpayment and closing costs; matching funds for employer-assisted downpayment and closing costs; and homeownership counseling. The City's Housing Opportunities Fund, which is made up in part of City general fund revenues, is also available to assist non-profit or for-profit entities that wish to build new affordable housing units, or renovate existing housing stock to make it available as affordable housing. The City would like to improve its affordable housing programs, but needs additional revenues to do so.

Increasing the recordation tax (paid when real estate is transferred from one owner to another, or when homes are refinanced) would provide new funds for the City to use to protect or purchase open space, and to support additional affordable housing. Currently, the local recordation tax is \$.05 per \$100 value of real estate transferred, which is the equivalent of \$150 on a \$300,000 transaction. The City would like to double the tax to \$.10 per \$100 (or \$300 on a \$300,000 transaction). Revenues from this tax would likely total \$1.5 million or more per year.

## 2. Funding for Transit

**Position:** *The City of Alexandria seeks the passage of legislation to increase funding for transit by raising, from 2 percent to 4 percent, the sales tax on motor fuels in the Northern Virginia Transportation Commission (NVTC) localities.*

The 2 percent sales tax on motor fuel was enacted by the 1980 General Assembly to provide a consistent and dedicated revenue source for the new Metrorail system. Revenues originally were collected on all fuel purchases in those localities which belonged to NVTC at that time (the cities of Alexandria, Fairfax, and Falls Church, and the counties of Arlington and Fairfax). In 1986, the tax was extended to PRTC, where it is used to pay for a portion of the costs of VRE (the Virginia Railway Express) and other transportation programs. The tax has been assessed on motor fuel sales in Loudoun since that county joined NVTC in 1990.

Since the tax is based on the cost, and not the amount, of fuel purchased, total revenues sometimes vary considerably from year to year. Total NVTC revenues grew from \$17.2 million in FY 2000, to \$21.2 million in FY 2001, but they fell to \$18.4 million in FY 2002.

NVTC motor fuels tax revenues for WMATA (Metro) compact members (which is all NVTC localities except Loudoun) are used exclusively to pay for WMATA expenses. Each locality is generally credited with the amount of revenues raised from actual fuel sales in the locality, and this credit reduces the WMATA subsidy owed by the locality. Loudoun uses its motor fuels tax revenues for its own transit and transportation needs.

State taxes on motor fuels in this region are: Virginia: \$0.175/gallon; District of Columbia: \$.20/gallon; and Maryland: \$0.235/gallon.

In FY 2002, \$1.64 million was raised from motor fuels sales taxes in the City of Alexandria. If the rate had been 4 percent, rather than 2 percent, revenues from motor fuel sales would have been \$3.3 million, which would have been credited toward the City's WMATA obligations.

While it is difficult to fully project the City's future WMATA obligations, the proposed WMATA CIP includes projects that could require as much as \$215 million in City funds over the next 10 years. Only \$20 million of this is funded in the City's Current CIP. While the CIP actually approved for WMATA may be lower than the WMATA proposal, this demonstrates the City's need for additional dedicated transit revenues.

Alexandria, together with other NVTC localities, seeks the passage of legislation to increase funding for transit by raising, from 2 percent to 4 percent, the sales tax on motor fuels in the Northern Virginia Transportation Commission localities.

### **3. Amending Authority to Levy an Admissions Tax**

**Position:** *The City of Alexandria seeks the passage of legislation to create a separate category – movie theater admissions – for which a locality may charge an admissions tax.*

All cities and towns, as well as some counties, currently have authority to charge admissions taxes. Under current law, admissions taxes can be charged on the following categories of events:

1. events which are held solely to raise funds for charity;
2. school-sponsored events;
3. entry into museums, botanical gardens, and zoos;
4. fees for participants at sporting events; and
5. major league baseball games or events held at major league baseball stadiums.

A locality can charge a different admissions tax, or no admissions tax at all, for each of these categories. Movie theaters are not a separate category.

A locality can also charge an admissions tax on all other events (concerts, lectures, plays, recitals, movies, football games, etc.), but the locality must tax all these events (those events not included in the categories set out in the above bullets) at the same rate.

If a separate admissions category for movie theater tickets is added to the law, localities would be able to levy an admissions tax on movie theater tickets without taxing any other events. Staff estimates that each percent admissions tax on movie theater tickets in Alexandria would provide \$150,000 annually.

#### **4. Assessments on New Buildings**

**Position:** *The City of Alexandria seeks the passage of legislation which would allow the City to make a supplemental assessment on any substantially completed building that is deemed fit for occupancy at any time during the year.*

State law allows localities, with the exception of Fairfax County, to make a supplemental assessment on any substantially completed building that is fit for occupancy, as long as the completion date for the building falls before the first of November. If such a building is completed between November 1 and December 31, the locality must wait until the following year to revise the assessment on the building.

In the 1999 General Assembly Session, Fairfax County was granted authority to perform supplemental assessments on buildings throughout the entire year (i.e., they can now do these assessments on buildings completed between November 1 and December 31). The County was required to pass an ordinance to use this new authority. Fairfax now prorates real estate taxes on all newly constructed buildings based on the number of days in the tax year that they are fit for occupancy.

The City recommends that it be given the same authority as Fairfax County. It is also working with other Northern Virginia localities to get their support for this proposal. If this authority were implemented in Alexandria, staff estimates that it could result in approximately \$150,000 in new revenue annually.



## 5. Child Day Care Funding Issues

**Position:** *The City of Alexandria recommends that the Commonwealth preserve current state funding for child day care to the greatest extent possible, and increase funding to this program when state revenues improve. Furthermore, the City proposes that increased child day care funding be made a priority when the federal government's TANF program is reauthorized, and that priority be given to the following child day care programs: (1) child day care assistance for TANF "graduates" (increase, from one year to two years, their eligibility for transitional assistance once they leave TANF); (2) revised eligibility policies to reflect the high cost of living in Northern Virginia; (3) reimbursement rates that reflect the actual child care market.*

For several years now, the City has sought additional state funding for those residents who receive state and local child day care financial assistance. While it would be unrealistic to expect increases in state funding for child day care in the 2003 Session, the City recommends that current state funding be preserved to the greatest extent possible.

The City also recommends that the state put additional money into this program when state revenues improve. Finally, the City would like the state to make increased child day care funding a priority when the federal government's major welfare program, Temporary Assistance to Needy Families (TANF), is reauthorized (this is expected to occur next year).

More specifically, the City recommends the following priorities for child day care programs when new money becomes available. The City requests that its General Assembly delegation incorporate language into the current state budget, directing the Administration to take these proposals into consideration when developing the next biennial budget.

A. Give TANF "Graduates" Additional Child Day Care Assistance. Current state policies make those parents who are making the transition off welfare (TANF) eligible to receive child day care assistance for up to 12 months. Most parents are not making sufficient wages to meet child day care and other needs at the end of this 12-month period. Ray Goodwin, Deputy Director of the Virginia Department of Social Services, recently noted that a new study prepared for the Department "shows that there have been many successes in welfare reform in Virginia, but some moving off welfare still struggle for self-sufficiency." To help address this problem, the City recommends that state policy be changed (and funding provided) so that parents are eligible for child day care assistance for an additional year after "graduating" from TANF. This would allow TANF "graduates" to stay employed, improve their wage rates, and eventually become totally self-supporting.

B. Revise eligibility policies to reflect the high cost of living in Northern Virginia. Prior to 1996, Northern Virginia localities had the option of providing state child care subsidies for families with annual incomes up to 75% of the state median income. At

that time, families with monthly incomes of about \$3,000 or less (for a family of four) were eligible for this assistance in many Northern Virginia jurisdictions.

Since 1996, income limits in Northern Virginia have been lowered significantly. In Northern Virginia, a family of four is now eligible for child day care assistance only if its income does not exceed about \$2,700 monthly. Federal regulations allow Virginia to extend these subsidies to families whose monthly incomes are at or below \$4,800 for a family of four.

The City recommends that Northern Virginia eligibility levels be returned at least to their 1996 levels.

C. Ensure that reimbursement rates reflect the actual child care market. The Virginia Department of Social Services (DSS) is required (1) to survey local child day care providers biennially to determine actual market rates, and (2) to use these survey results to set state reimbursement rates. The state completed its most recent Alexandria survey in 1999, and did not use this data (which was flawed) to revise rates until 2001. Finally, DSS admitted that the rates it set in 2001 included only half the increase justified by its flawed and outdated survey.

When reimbursement rates are set lower than actual market rates, low-income parents frequently must pay the difference to their child care providers. Furthermore, the number of individuals willing to provide child day care services decreases when reimbursement rates are too low, making it difficult for low-income families to find child care.

The City recommends that DSS (1) undertake its market survey every two years, (2) revise rates in a timely manner after each survey, and (3) set and fund these revised rates at the 75<sup>th</sup> percentile of the market survey. This will help ensure that low-income families have access to affordable, quality child care.

## **6. Privileged Communications: Sexual Assault & Domestic Violence Victims**

**Position:** *The City of Alexandria requests the State Crime Commission and its Domestic Violence Subcommittee to study the issue of privileged communications between sexual assault and domestic violence victims and their counselors and propose appropriate legislation to the 2004 General Assembly.*

The City of Alexandria has a strong and caring program in which it supplies advocates to assist victims of sexual assault and domestic violence. These victims and advocates often discuss some of the most personal and confidential information about the victim's life and the sexual assault or domestic violence directed against the victim. In recent years, these Alexandria programs, as well as similar programs around the Commonwealth, have experienced an influx of subpoenas for confidential records, or for the advocates to testify about the information they have received from the victims.

Although victims have spoken to their advocates with the belief that any information they give will be held in confidence, there is no Virginia statute that protects the confidentiality of communications between these advocates and victims. Without this confidentiality, those who have been assaulted are further victimized and their willingness to participate in the legal process may be hindered. In addition, when staff members are subpoenaed, the efficacy of these advocates is severely compromised. Furthermore, responding to subpoenas requires advocates to spend scarce time researching records and testifying in court – time that should be spent in support of victims.

Thirty-three other states, including North Carolina and Alabama, protect confidential communications between clients and their advocates.

The City believes that Virginia law should protect the confidentiality of communications between victims and advocates. Since there is likely to be some opposition to such a statutory change, the City believes that a legislative study could educate General Assembly members about the problem, and help develop support for a bill in the future. The City recommends that the State Crime Commission and its Domestic Violence Subcommittee study this issue and propose appropriate legislation to the 2004 General Assembly Session.

## 7. Payments to Foster Care Parents

**Position:** *The City of Alexandria requests the Virginia Commission on Youth to study foster care rates and report its findings and recommendations to the 2004 General Assembly.*

Foster parents are people who generously open their homes to children in need, and are committed to meet the individual needs of these children. They work in partnership with the child, the local government, and in many cases the birth parents to help in resolving problems and reuniting the family whenever possible. Most children in foster care are going through a troubled period in their family life. They are often confused, sad, and angry, and need a great deal of support and attention from their foster parents.

The state provides some funding to cover the costs incurred by foster parents. Currently, this ranges from \$294 monthly for a child 4 years old or younger, to \$436 for a child 13 or older.<sup>1</sup> This pays for far less, however, than the \$689 that the federal government estimated in 2000 as the average monthly cost (not including medical care) of raising a 9-year-old child.

The City believes that the state should substantially increase payments to foster parents. It realizes that this will not occur during the current state budget crisis. The City would like the state to be ready to revise foster care rates once state revenues improve, and recommends that the Commission on Youth study foster care rates and report its findings and recommendations for revised rates to the 2004 Session of the General Assembly.

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<sup>1</sup>In cases where a child is living on his own, in an independent living arrangement often connected with attendance at college, the monthly payment increases to \$644.

## **8. Virginia Juvenile Community Crime Control Act**

**Position:** *The City of Alexandria supports continued state funding at current levels for the Virginia Juvenile Community Crime Control Act (VJCCCA).*

The VJCCCA funds programs in Alexandria and other localities that provide alternatives to secure detention for juveniles, such as the day reporting centers (which provide structured supervision to juveniles), the Youth Educational Program (which seeks to divert first-time shoplifters from additional offenses), and the School Liaison Program (which attempts to stop patterns of truancy). In FY 2002, the City received \$525,951 in VJCCCA funds. For FY 2003, this funding was reduced to \$275,716 (statewide VJCCCA funding was reduced from \$29.5 million in FY 2002 to \$14.5 million in FY 2003). The City increased its existing supplement to this program, and is providing approximately \$300,000 to VJCCCA programs in FY 2003. It is unlikely that the City will be able to fully fund additional cuts that are made to this and other programs as the state seeks to address its current budget shortfall.

The City of Alexandria supports continued state funding at current levels for the VJCCCA.

## 9. Education Funding

**Position:** *The City of Alexandria supports the Virginia Municipal League position to increase and restructure state education funding.*

Local governments throughout the Commonwealth currently pay a disproportionate share of the costs for the instructional and support staff necessary to meet state educational standards. In 2002, the Virginia General Assembly's Joint Legislative Audit and Review Commission (JLARC) completed a two-year review of state and local education funding. This study documented a shortfall of \$1 billion to \$1.4 billion in state educational funding for school systems throughout the state.

The Virginia Municipal League (VML) and the Virginia Association of Counties (VACO) have reviewed the JLARC report, and developed a proposal to address the inadequacy of state funding for K-12 education. This proposal, which would require additional state revenues, would also address a well-documented need for additional revenues at the local level.

The VML/VACO proposal seeks to replace the current education funding formula with a simpler one. The new formula would be based on the cost of education services and at-risk student levels, and would recognize cost differentials across the state. Under the current draft proposal (which, staff cautions, could change significantly before such a proposal is ever enacted), the City of Alexandria is projected to receive over \$26 million in new revenue.

Although this proposal could not be funded while the state is experiencing its current revenue shortfall, VML and VACO are pursuing this as a long-term goal. The City of Alexandria supports this proposal.

## 10. Revisions to the Red Light Camera Law

**Position:** *The City of Alexandria supports the passage of legislation to extend red light camera authority to those localities that do not have it, and to eliminate the program's 2005 sunset provision.*

Alexandria initiated a pilot red light camera enforcement program in 1997 to reduce the number of red light violations. Under this program, a private vendor under contract with the City photographs motor vehicles that run red lights at three intersections (Patrick and Gibbon, Duke and Walker, and Seminary and Nottingham). The vehicle's owners are then identified, using Virginia Department of Motor Vehicles records, and each owner is sent a notice of violation and is required to pay a \$50 fine. Under the state law, no points are assessed against a vehicle owner's driving record. This program has been effective in helping to reduce red light violations in the City.

In recent General Assembly Sessions, legislation has been introduced to extend red light camera authority to localities that do not have it,<sup>2</sup> and to eliminate the program's 2005 sunset provision. Without the elimination of the sunset provision, the City will not be able to continue its program beyond July 1, 2005. The City of Alexandria supports such legislation, which is expected to be reintroduced in the 2003 Session.

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<sup>2</sup>Eight localities are authorized to operate red light camera programs: the cities of Alexandria, Fairfax, Falls Church, Richmond, and Virginia Beach, and the counties of Arlington, Fairfax, and Loudoun.

## 11. Funding for Pre- and Post-Release Services

**Position:** *The City of Alexandria supports the restoration of state funding to the Virginia CARES program.*

Since 1977, the Virginia CARES Network has provided services to help over 50,000 prisoners make the transition back into society, and prevent them from returning to prison. Virginia CARES estimates that it costs over \$20,000 a year to keep a person in prison, but only \$300 (a one-time cost) for this organization to provide the help that keeps a person from returning to prison.

The state has provided funding for Virginia CARES for a number of years. Last Session, the organization's state funding was reduced by 20 percent (to about \$1.8 million) from the previous year's level for the first year of the current biennium, and eliminated altogether for the second year. The City supports the restoration of state funding to this program for FY 04, at the same level as the current fiscal year (\$1.8 million).



## 12. State Earned Income Tax Credit

**Position:** *The City of Alexandria supports the passage of legislation to create a refundable state Earned Income Tax Credit.*

For a number of years now, legislation has been introduced in the General Assembly to create a state Earned Income Tax Credit (EITC). An EITC is a special credit for low-income working persons. A federal EITC already exists. Under the federal program, a single taxpayer with more than one child qualifies for the credit if the individual's earned income (e.g., wages and salaries) does not exceed \$33,178 a year; a married couple's earned income cannot exceed \$34,178.<sup>3</sup>

Most of the past EITC proposals sought to give a Virginia tax credit equal to 10 percent of the credit awarded the taxpayer under the federal program. Until 1998, all the proposals were defeated. That year, legislation was passed to create a tax credit equal to the greater of: (1) 75 percent of the taxpayer's federal earned income credit, or (2) \$300 per child under 18 living at home. The credit was also limited to the taxpayer's tax liability (under the federal program, EITC recipients are sent a check for the difference if their EITC credit exceeds their tax liability). Funding for this program was to be provided by the state as a part of Virginia's maintenance of effort required under the federal TANF (Temporary Assistance to Needy Families) program, subject to federal approval of the concept. When the federal government reviewed this legislation, it agreed that TANF funds could be used for this purpose, but only for tax year 1998.<sup>4</sup>

Although Virginia has not enacted EITC legislation, it has passed legislation that gives a state tax credit of up to \$300 annually to taxpayers whose family income does not exceed federal poverty limits. This credit, however, is non-refundable (if it exceeds the person's tax liability, the state does not send him a check for the difference).

A 2001 study by the Center on Budget and Policy Priorities (CBPP), estimated that if Virginia created a refundable state EITC giving families a state credit equal to 10 percent of the credit they receive under the federal program, it would cost the state \$68 million annually. CBPP provided data to City staff which shows that approximately 11 percent of City residents who file federal tax returns receive the federal Earned Income Tax Credit, and would thus be eligible under a state program which is based on the federal one.

The City continues to support a refundable earned income tax credit.

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<sup>3</sup>This is the maximum income eligibility for tax year 2002.

<sup>4</sup> Because the program did not meet all the requirements of an "expenditure" under TANF regulations, the federal government said that it could not permanently certify the program.

### **13. Community Services Block Grants**

**Position:** *The City of Alexandria supports continued funding at current levels for Community Services Block Grants.*

The Department of Human Services' Office of Community Services provides a wide range of emergency services, crisis intervention, and housing assistance to low-income persons in Alexandria. Much of this is supported financially by federal and state Community Services Block Grants (CSBG). During the current fiscal year, the City will receive about \$51,000 in CSBG funds. There is never enough CSBG funding to support all the eligible needs of the low-income individuals the program serves.

Because of the current state budget crisis, the Economic Opportunities Commission knows that it cannot expect the state to increase CSBG funding. It does recommend, however, that CSBG funding be continued at its current level, and not reduced as part of the State's efforts to balance its budget. The City supported funding for CSBGs in its 2002 Legislative Package.

#### **14. Issues Endorsed by Various Coalitions for the Aging**

**Position:** *The City of Alexandria supports the maintenance of essential services to older Virginians.*

The Alexandria Commission on Aging regularly asks City Council to endorse the legislative platform of the Northern Virginia Coalition on Aging and the Virginia Coalition for the Aging. The Commission then testifies in support of the platform during the General Assembly Session. Council has followed this process since 1997 (authorizing the Commission to support the Coalitions' platforms).

This year the Coalitions have a very simple platform. They ask that the General Assembly maintain essential services to older Virginians in 2003 as it considers revisions to the biennial budget. The City of Alexandria supports this platform.

## **15. Virginia Housing Development Authority Loan Eligibility**

**Position:** *The City of Alexandria supports the passage of legislation to prohibit any VHDA regulation which restricts VHDA loans to persons who are related by blood or marriage.*

The Virginia Housing Development Authority (VHDA) is a state entity that makes loans for affordable housing to first-time home buyers with low and moderate incomes. VHDA loans are more attractive to home buyers because they generally require a lower down payment, a lower interest rate, or both.

Several years ago, the VHDA Board adopted a new regulation. This regulation restricts VHDA loans, in the case of two or more individuals who wish to purchase a home, to persons who are related by blood or marriage. Because of this restriction, unrelated couples, including same-sex couples, cannot receive VHDA assistance. The City of Alexandria supports legislation to prohibit such a regulation.

## 16. Restoration of Civil Rights for Felons

**Position:** *The City of Alexandria supports legislation modifying the process for restoring voting and other civil rights, so that more felons can have these rights restored after they complete their prison sentences.*

Under Virginia law, any person convicted of a felony forfeits certain civil rights for life, including the right to vote. The Virginia Constitution reserves to the Governor the power to restore these rights. Virginia's process for restoring rights has been one of the most restrictive in the country. In recent years, there have been increased complaints about the difficulties felons in Virginia face if they try to have their rights restored. They often have no idea how the process works, and have found it difficult to determine the status of their requests to have their rights restored.

Legislation (HB 1080) passed by the 2000 General Assembly addressed some of these problems. It required the Virginia Department of Corrections to explain to felons, at the completion of their prison sentence, the state process for restoring civil rights. HB 1080 also directed the Secretary of the Commonwealth (who prepares, for the Governor, the paperwork on the restoration of rights) to notify felons once a completed application for the restoration of rights has been received. Finally, the bill required the Secretary of the Commonwealth to notify an applicant of the Governor's decision (whether or not voting rights will be restored) no later than 90 days after that decision had been made.

Governor Mark Warner recently announced further changes to streamline the process by which those convicted of non-violent felonies, other than drug distribution offenses and voting fraud, may regain their civil rights (including the right to vote, to hold public office, to serve on a jury and to serve as a notary public). Under the new policy adopted by the Governor, these offenders may apply for a restoration of rights three years (as opposed to the existing policy of 5 years) after completing their sentence, as well as any suspended sentence, probation, parole or supervised release. The application has been reduced to a single page. The Commonwealth will continue to perform a criminal background check on all applicants. Those applicants who have not been convicted of any offense since the conviction which caused them to forfeit their civil rights, and have no pending criminal charges, will have their voting rights restored. The Governor's new policy also provides for all applicants to receive a decision from the Governor within six months of submitting a completed application.

For over a year now, a Task Force of the Virginia State Crime Commission has been studying this issue. This Task Force is chaired by Delegate Brian Moran, and is expected to recommend to the 2003 General Assembly that the State Constitution be amended to authorize the General Assembly to provide by statute for the restoration of a felon's rights. If such an amendment is enacted, the General Assembly could provide by statute for the continuation of Governor's Warner revised procedures or similar ones. Without such an amendment, a future Governor could retract the Warner process and return to the earlier slower, more cumbersome one. The City of Alexandria supports the Crime Commission proposal.

## 17. Motor Vehicle Accident Investigations

**Position:** *The City of Alexandria supports legislation to increase the amount of property damage resulting from a motor vehicle accident (currently \$1,000) before a law enforcement officer is required to file a written report.*

The Code of Virginia requires any law enforcement officer who investigates a motor vehicle accident which results in total property damage estimated at \$1,000 or more to file a written report of the accident with the Virginia Department of Motor Vehicles. This statute has been in the Virginia Code for a number of years, and has been amended from time to time, mainly to increase the threshold for which these written reports are required. The threshold was originally set at \$500 in 1986. It was raised to \$750 in 1988, and to \$1,000 in 1992. It has remained at that level for 10 years. In 2001, legislation to increase the threshold to \$2,500 was defeated.

A police officer spends about an hour preparing one of these reports, and the Alexandria Police Department believes that this time should be spent on more important duties than preparing reports on many relatively minor accidents. Police recommend that they continue to respond to and investigate all accidents, but not file written reports on accidents involving less serious property damage. Law enforcement officers can still charge a driver found at fault even when minor damage does not trigger the completion of a state report.

The Alexandria Police Department has asked the City to support an increase in the threshold to something above \$1,000. The threshold would be approximately \$1,300 if it were increased to a level that would take into account increases in the cost of living since the threshold was last changed (1992). The City supports legislation to increase this threshold.

## 18. Yielding to Pedestrians in Crosswalks

**Position:** *The City of Alexandria supports legislation allowing localities to enact ordinances requiring drivers to stop for any pedestrian using a crosswalk at certain non-signalized intersections.*

Pedestrian safety is a major issue for Northern Virginia localities. The high volume of traffic often makes it difficult for pedestrians to cross roads, even at crosswalks.

Current law (§ 46.2-924) requires drivers to yield, but not stop, at any clearly marked crosswalk where the legal maximum speed does not exceed 35 miles per hour. Staff from various Northern Virginia localities believe that pedestrian safety would be enhanced if localities could enact ordinances requiring drivers to stop for any pedestrian using a crosswalk at a non-signalized intersection on a road where the legal maximum speed does not exceed a given moderate speed (e.g., 30 miles per hour). The City of Alexandria supports legislation authorizing such ordinances.

## 19. State Surcharge on Municipal Solid Waste

**Position:** *The City of Alexandria opposes any legislation which would impose a state surcharge on municipal solid waste which is incinerated at waste-to-energy (WTE) facilities.*

In 2001, the Virginia Recycling Markets Development Council, a State-chartered advisory body, recommended that the state adopt a surcharge on all municipal solid waste (MSW) disposed of in Virginia, including that which is incinerated at waste-to-energy (WTE) facilities. Although no surcharge legislation was introduced in the regular 2001 Session, the Governor asked the General Assembly to adopt a surcharge statute at the 2002 Veto Session. The Governor's proposal would have exempted WTE plants from paying the surcharge on waste they received (although the ash a WTE facility sends to a landfill probably would have been subject to a surcharge), and would have returned a portion of the surcharge revenues to local governments for use in programs aimed at conserving and protecting their natural resources (e.g., the preservation of open space). This legislation, which would have been beneficial to the City as drafted, was carried over to the 2003 Session, where it or other surcharge legislation is likely to be considered. Without a WTE exemption, the WTE facility jointly owned by the City of Alexandria and Arlington County could suffer significant revenue losses.

The Arlington-Alexandria facility has been operated since its opening by a private-public partnership. With the loss of flow control authority following a 1994 Supreme Court decision, the Alexandria/Arlington facility began to lose customers, and it had to lower tipping fees (below the actual facility costs) for private customers so that they would continue using the facility. At the same time that the facility's fees were being lowered, federal Clean Air Act requirements forced the facility to make expensive capital improvements, which were financed with a \$46.1 million bond issue. These combined financial pressures – lower revenues from tipping fees, and higher costs for expensive capital improvements – may result in the need for Alexandria and Arlington to provide ongoing, substantial subsidies to the facility. To date, these localities have avoided such a taxpayer subsidy by drawing down reserves to cover operating losses (these reserves were established in part for capital improvement purposes), and by increasing local solid waste fees charged to our residents.

If a tipping fee is also added, it will quickly and significantly increase any taxpayer subsidy needed for this facility. For this reason, the City opposes any legislation recommending a waste disposal surcharge fee for WTE facilities, or the resulting ash from these facilities.



## 20. Cluster developments

**Position:** *The City of Alexandria opposes efforts to further limit local authority to regulate cluster developments.*

The 2002 General Assembly passed legislation (HB346) that significantly revises local authority over cluster development. This bill authorizes localities to regulate cluster developments by ordinance only – not by issuance of a special use permit, except in certain cases (localities may require special use permits for cluster developments of 2 acres or less, or cluster developments that would have density greater than that otherwise permitted for the property). Localities have until July 1, 2004, when special use permits for most cluster developments become prohibited, to adopt a cluster ordinance.

This cluster legislation (which the City supported) was developed as a compromise between the building industry and local governments. One of the compromise issues involved the regulation of building design features in a cluster ordinance. All parties to the compromise bill agreed that local governments could include specific standards for open space, landscaping, roads, and building design in a cluster ordinance.

The City of Suffolk has already prepared a draft cluster ordinance that incorporates design standards. Some General Assembly members have questioned whether design standards should be included in a cluster ordinance, in spite of the compromise that was reached on this issue, and have questioned whether additional cluster legislation, more restrictive of local government authority, is needed.

The City of Alexandria opposes efforts to further limit local authority to regulate cluster development.